

### **REMARKS**

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

#### **Allowable Subject Matter**

Applicant gratefully acknowledges the indication, at page 2 of the Office Action, that the subject matter of Claims 109-122, 128-135, 242-250 and 272-279 contains allowable subject matter.

#### **Summary of Office Action**

In the Office Action, beginning at page 2, Claims 241, 251-271 and 280 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

In the Office Action, beginning at page 2, Claims 251-256, 259-262, and 264-271 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the scope of enablement requirement.

#### **Summary of Response to Office Action**

In Response to the November 15, 2007 Office Action, Applicant hereby amends claims 241, 251-253, 257, 263, and 280 without prejudice or disclaimer. Accordingly, claims 109-122, 128-135, and 241-280 are currently pending. Claims 109, 128 and 251 are the only pending independent claims, with claims 109 and 128 being allowable.

#### **All Claims Are Allowable**

Without prejudice or disclaimer, and in order to move prosecution of this case forward, by this Amendment Applicant amends independent claim 251 to include the previous features withdrawn by the August 30, 2007 Amendment and to remove the features added by the August 30, 2007 Amendment. Accordingly, by this removal of the language at issue, it is respectfully submitted that both rejections based on 35 U.S.C. §112, first paragraph are now moot. Applicant respectfully requests reconsideration of the rejections for at least the following reasons.

Applicant respectfully submits that the claims as presented by this Amendment moot the

outstanding rejections, while also avoiding any possible reconsideration of the rejections set forth in the January 25, 2007 Office Action. In particular, claim 251 as presented defines over U.S. Patent 4,735,644 to Schneider (Schnieder'644) in that it explicitly includes the feature of providing a chamber *configured to provide a controllable environment separate from an exterior ambient room environment*. This emphasized feature was not present when the January 25, 2007 Office Action issued. In the January 25, 2007 Office Action, it was admitted that Schneider'644 did not disclose providing a chamber, but it was also alleged that Schneider'644 inherently discloses the use of a chamber because any room environment in which preform operations are undertaken could allegedly be considered to be a chamber. However, the use of a chamber, and now specifically a chamber *configured to provide a controllable environment separate from an exterior ambient room environment* as set forth in Applicant's amended claim 251 should certainly define over the broad interpretation and alleged inherent disclosure of Schneider'644. In addition, for the record, Applicant hereby admits that the scope of claim 251 is not intended to cover a process that takes place exposed to the environment of a room or lab which are exposed to personnel, other equipment, etc. As can be deduced from the remainder of the method features in claim 251, in particular the feature of controlling at least one of temperature pressure and dopant, and when read in light of the specification, it would not have been realistic to consider a room environment to be the chamber, and especially should not be considered in view of the explicit new features included in claim 251.

The amendments to independent claim 251 are made to place the claim (and its dependent claims) in form for allowance or at least in better form for appeal, and should moot the outstanding rejections. However, the amendments should not be considered to be an admission that written description or enablement provisions were not met by the claims set forth in the August 30, 2008 Amendment. Applicant specifically reserves the right to present the features removed from claim 241 in claims during further prosecution of this or continuing applications.

For at least the foregoing reasons, Applicant respectfully submits that Claims 241, 251-271 and 280 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully

requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

**Conclusion**

Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of this patent application is therefore respectfully solicited.

If the patent Examiner believes that a telephone conference with the undersigned would expedite passage of this patent application to issue, he is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. If, however, additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account listed on Applicant's initial application filing transmittal document.

Respectfully submitted,

Cermak Kenealy & Vaidya LLP

By:  /djk/  
David J. Kenealy  
Registration No. 40,411

**U.S.P.T.O. Customer Number 39083**

Cermak Kenealy & Vaidya LLP  
515 E. Braddock Rd., Suite B  
Alexandria, Virginia 22314  
703.778.6610 (v)  
703.652.5101 (f)

Date: September 26, 2008